

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Lawrence C. Ogris,

Civil No. 16-465 (DWF/FLN)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Mark Dayton, Governor; and
Tom Roy, Commissioner of Corrections,

Respondents.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated December 5, 2016. (Doc. No. 16.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. In the Report and Recommendation, the Magistrate Judge recommended that Petitioner's Petition for Writ of Habeas Corpus be denied with prejudice.

In addition, a 2254 petitioner cannot appeal an adverse ruling on his petition unless he is granted a Certificate of Appealability ("COA"). 28 U.S.C. § 2253(c)(1). A COA may issue only if the petitioner has made "a substantial showing of the denial of a constitutional right." 28 U.S. C. § 2253(c)(2). Here, the Court concludes that Petitioner has not made such a showing.

Therefore, based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Franklin L. Noel's December 5, 2016 Report and Recommendation (Doc. No. [16]) is **ADOPTED**.
2. Petitioner's Petition for Writ of Habeas Corpus (Doc. No. [1]) is **DENIED**, and this matter is **DISMISSED WITH PREJUDICE**.
3. Respondents' Motion to Dismiss (Doc. No. [8]) is **DENIED AS MOOT**.
4. No COA is granted in this matter.

Dated: January 19, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge